

STATE OF SOUTH CAROLINA

(Caption of Case)

In Re: Application of Chem-Nuclear Systems, LLC
(Fiscal Year 2011-2012 Proceeding)

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2000 - 366 - A

(Please type or print)

Submitted by: M. John Bowen, Esquire

SC Bar Number: 792

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input checked="" type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input checked="" type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

MCNAIR
ATTORNEYS

September 28, 2011

M. JOHN BOWEN, JR.

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South Carolina Public Service Commission
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Re: Application of Chem-Nuclear Systems, LLC (SCPSC Docket No.
2000-366-A) (Fiscal Year 2011-2012 Proceeding)

Dear Ms. Boyd:

Please find enclosed for filing the original Application of Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., for Adjustment in the Levels of Allowable Costs and for Identification of Allowable Costs for Fiscal Year 2011-2012 ("Application"). We are filing the Application in accordance with S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2010) and the Commission's rules of practice and procedure.

As the Certificate of Service to the Application indicates, we have formally served a copy of the Application on those parties which S.C. Code Ann. § 48-46-40(B)(9) (Supp. 2010) designates as parties to this proceeding. By copy of this letter, we are providing a copy of the Application to the appropriate officials of the Atlantic Compact Commission and the South Carolina Department of Health and Environmental Control which Section 48-46-40(B)(9) (2010) designates as discretionary parties, and we are providing a copy to the Chief of Staff of the Office of Regulatory Staff.

Should you have any questions with respect to this filing, please do not hesitate to contact me.

Sincerely,

McNAIR LAW FIRM, P.A.

M. John Bowen, Jr.

Enclosures

cc: The Honorable Alan Wilson (w/encl.)
The Honorable C. Earl Hunter (w/encl.)
Frank R. Ellerbe, III, Esquire (w/encl.)
Derrick K. McFarland (w/encl.)
Jeffrey M. Nelson, Esquire (w/encl.)
Mr. Dan F. Arnett (w/encl.)

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Docket No. 2000-366-A

Pursuant to the provisions of S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2010), Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., (“Chem-Nuclear” or the “Company”) submits this Application for adjustment in the levels of certain “allowable costs” and for the identification of certain “allowable costs” for the operation of its regional low-level radioactive waste disposal facility located in the vicinity of Barnwell, South Carolina. In support of the relief which it requests in this Application, Chem-Nuclear would respectfully show unto this honorable Commission:

2. Section 48-46-40(B)(1) of the Act authorizes and directs the Commission “to identify allowable costs for operating a regional low-level radioactive waste disposal facility in South Carolina.” Section 48-46-30(1) defines “allowable costs” as “costs to a disposal site operator of operating a regional disposal facility.” Under that definition, such costs “are limited to costs determined by standard accounting practices and regulatory findings to be associated with facility operations.”

3. Section 48-46-40(B)(3) of the Act provides that “allowable costs” expressly include the costs of certain specifically identified activities necessary in the operation of a low-level radioactive waste disposal facility. That Section also provides that “allowable costs” include “any other costs directly associated with disposal operations determined by [the Commission] to be allowable.”

4. Chem-Nuclear operates a regional low-level radioactive waste disposal facility in Barnwell County, South Carolina (the “Facility”). Consequently, the Commission has the authority to identify the “allowable costs” for the Company’s operation of the Facility.

5. The Facility is located on a tract of land consisting of approximately 235 acres which the State of South Carolina owns and which the Company leases from the South Carolina Budget and Control Board (the “Board”). The 235-acre site includes areas for various operations, including completed disposal trenches, potential trench areas, ancillary facilities, water management areas and buffer zone areas.

6. The Company conducts its operations at the Facility under South Carolina Radioactive Material License 097 (“License 097”) by which the South Carolina Department of Health and Environmental Control (“DHEC”) has authorized receipt, storage and disposal of low-level radioactive waste at the Facility. License 097 contains numerous technical conditions and specifications for management of waste at the Facility. In addition to the requirements of License 097, the Facility is subject to DHEC’s regulations in 24A S.C. Code Reg. 61-63 (Supp. 2010). DHEC’s regulations are compatible with the provisions of “Licensing Requirements for Land Disposal of Radioactive Wastes,” which the United States Nuclear Regulatory Commission (“NRC”) originally promulgated in 10 C.F.R. Part 61, and DHEC has adopted most of those provisions and enforces them through its own regulations under an agreement with the NRC.

7. On May 26, 2011, the Commission issued its Order No. 2011-388 in this docket. In that Order, the Commission identified certain categories of “allowable costs” and identified levels of “allowable costs” within those categories. Order No. 2011-388 approved certain rates for variable allowable costs and identified the sum of \$2,757,848 for total fixed allowable costs for the 12 months ending June 30, 2011. The Order also approved irregular costs of \$187,654 as allowable costs.

8. S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2010) provides that an operator of a low-level radioactive waste disposal site may apply for adjustments in the levels of “allowable costs” that the Commission has identified for the previous fiscal year and for identification of costs that the Commission has not previously identified as “allowable costs.” Upon approval of such application, Section 48-46-40(B)(4) requires the Commission to authorize the site operator to adjust its “allowable costs” for the current fiscal year to compensate the site operator for revenues lost during the previous fiscal year.

9. For the purposes of this Application and its Exhibits, the Company has used the cost categories that the Commission approved in Order No. 2011-388, which were based on the recommendations of the parties to the Collaborative Review of the Company’s Operations and Efficiency Plan (“OEP”).

10. During the Company’s recently concluded Fiscal Year 2010-2011 (*i.e.*, the twelve months ending June 30, 2011), the Company’s actual “allowable costs” in those categories that the Commission identified in Order No. 2011-388 for fixed costs were \$2,879,569. By this Application, the Company requests the Commission to approve the levels of actual fixed allowable costs for Fiscal Year 2010-2011 to permit the Company to be compensated for those allowable fixed cost components identified in Order No. 2011-388, as authorized by Section 48-46-40(B)(4). Consequently, the Company proposes an adjustment of \$121,721 for allowable fixed costs in this Application.

11. With respect to those allowable costs which Order No. 2011-388 characterized as irregular costs, the Company incurred total irregular costs for Fiscal Year 2010-2011 which are \$29,151 less than the costs identified in Order No. 2011-388. Therefore, the Company requests no adjustment for irregular costs in this Application.

12. With respect to the allowable costs that Order No. 2011-388 characterized as variable labor and non-labor costs, which are dependent upon volumes of waste buried, the Company incurred actual costs in the category of variable labor and non-labor costs in Fiscal Year 2010-2011 of \$49,507 which is less than the costs identified in Order No. 2011-388, using the variable cost rates identified by the Commission in that Order for categories of waste and using the volumes of waste buried in Fiscal Year 2010-2011. Therefore, the Company requests no adjustment for variable labor and on-labor costs in this Application.

13. With respect to vault costs, Order No. 2011-388 established certain variable cost rates for each type of waste disposed at the Facility. By applying those rates to the volumes of each type of waste actually buried in Fiscal Year 2010-2011, the Company had calculated a total cost for routine disposal vaults of \$447,035. Based on the Company's actual experience in Fiscal Year 2010-2011, the Company incurred a cost of \$420,584 for routine disposal vaults. Therefore, the Company proposes no adjustment for this category.

14. The Company has attached to this Application three (3) exhibits pertaining to the adjustments and identification of the categories of "allowable costs" for its disposal operations.

15. Exhibit A to this Application describes in detail the Company's proposed adjustments for the recovery of its actually incurred costs for fixed, variable and irregular costs to reflect the differences between the level of "allowable costs" identified in Order No. 2011-388 and the level of the Company's actually incurred costs in Fiscal Year 2010-2011. Exhibit A also provides the rates for variable costs which were contained in Order No. 2011-388.

16. Exhibit B describes the actual irregular costs which the Company incurred in Fiscal Year 2010-2011, organized by project number.

17. Exhibit C depicts the total fixed costs, irregular costs and variable cost rates that the Company proposes for identification and approval for Fiscal Year 2011-2012.

18. For Fiscal Year 2011-2012, the Company requests identification as “allowable costs” a total of \$3,006,276 as allowable fixed costs, as depicted in Exhibit C. Exhibit C also identifies variable material cost rates and variable waste dependent labor rates for Fiscal Year 2010-2011. Irregular costs for Fiscal Year 2011-2012 anticipated at the time of this Application are \$187,654, as specified in Exhibit C. The costs and amounts in Exhibits A and C are consistent with the description of “allowable costs” in Section 48-46-40(B)(3), and they have been determined by standard accounting practices and are consistent with the recommendations of the Collaborative Review of the OEP as the Commission approved in Order No. 2004-349 in this Docket.

WHEREFORE, Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., respectfully prays unto this honorable Commission:

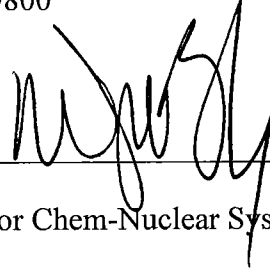
1. To review the Company’s Application and issue its Order, under S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2010), recognizing the levels of “allowable costs” as depicted in Exhibit A for Fiscal Year 2010-2011, and identifying the levels of irregular costs in Exhibit B for Fiscal Year 2010-2011, and identifying as “allowable costs” those costs depicted in Exhibit C for Fiscal Year 2011-2012.

2. For such other and further relief as is just and proper.

Respectfully submitted,

M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

By: _____

A handwritten signature in black ink, appearing to be "M. Fox", written over a horizontal line.

Attorneys for Chem-Nuclear Systems, LLC

September 28, 2011

Columbia, South Carolina

**EXHIBIT A:
FISCAL YEAR 2010-2011 COSTS**

Fixed Costs: \$121,721 Adjustment Proposed

Fixed costs, subject to a 29% operating margin, were incurred in fiscal year 2010-2011 in the general categories of labor-related costs, non-labor costs, costs allocated from corporate functions, equipment leases and support, depreciation and insurance. Fixed costs, **not** subject to a 29% operating margin, were incurred in fiscal year 2010-2011 in the category of legal support. The following table compares the actual costs incurred to the costs identified as allowable in Commission Order No. 2011-388:

	Commission Order No. 2011-388	Actual Costs Incurred in FY 2010- 2011	Adjustm ent Proposed
Labor, Fringe and Non-labor	\$1,371,044	\$1,518,199	
Corporate Allocation (G&A)	\$560,378	\$625,559	
Equipment leases and support	\$136,176	\$151,085	
Depreciation	\$51,668	\$51,111	
Insurance	\$431,175	\$418,658	
Subtotal (Fixed Cost subject to 29% margin)	\$2,550,441	\$2,764,612	
Legal Support	\$207,407	\$114,957	
Subtotal (Fixed Cost not subject to 29% margin)	\$207,407	\$114,957	
Total Fixed Costs	\$2,757,848	\$2,879,569	\$121,721

The actual Fixed Costs incurred during fiscal year 2010-2011 were **\$2,879,569**. This amount is **\$121,721** more than the amount identified in Order Number 2011-388. Therefore, an adjustment of **\$121,721** is requested in this category of costs.

Variable Costs:

Variable Labor and Non-Labor Costs

No Adjustment Proposed

Commission Order No. 2011-388 identified the following categories of rates for projecting Variable Labor and Non-Labor costs: vault purchase and inspection (per vault), ABC waste disposal (per shipment), slit trench operations (per slit trench offload), customer assistance (per shipment), and trench records (per container).

The following table illustrates the Variable Labor and Non-Labor costs that would be calculated using the Variable Labor and Non-Labor rates identified in Order No. 2011-388 and the number of units in each category.

	Units	Variable Cost Rate in Order No. 2011-388	Calculated Cost
Vault Purchase & Inspection (per vault)	70	\$78.98	\$5,529
ABC Waste Disposal (per shipment) (total shipments, less slit trench shipments, less irregular project shipments)	75	\$1,892.02	\$141,902
Slit Trench Operations (per slit trench offload)	0	\$6,830.62	\$0
Customer Assistance (per shipment)	75	\$46.25	\$3,469
Trench records (per container)	92	\$126.54	\$11,642
Total Calculated Variable Labor and Non-labor Cost			\$162,541

The actual Variable Labor and Non-Labor costs experienced in the disposal of waste in fiscal year 2010-2011 resulted in a Total Variable Labor and Non-Labor Cost of **\$113,034**. This amount is **\$49,507** less than the amount that would have been anticipated based on rates provided in Commission Order 2011-388. Therefore, Chem-Nuclear requests no adjustment in this category of costs.

Vault Costs

No Adjustment Proposed

The following table illustrates the vault costs that would be calculated using the Variable Cost rates identified in Commission Order No. 2011-388 and the volumes of waste received in each respective category.

	Volume Buried (cubic feet)	Variable Cost Rate in Order No. 2011-388	Calculated Cost
Class A waste	6,828.50	\$39.81	\$271,843
Class B waste	3,001.00	\$41.25	\$123,791
Class C waste	1,220.05	\$42.13	\$51,401
Slit Trench waste	0	\$188.23	\$0
Irregular Components (in vaults as an irregular cost)		N/A	N/A
Irregular Components (not in vaults)		N/A	N/A
Total Calculated Vault Cost			\$447,035
Total Volume (cubic feet)	11,049.55		

The total cost incurred for routine disposal vaults used during fiscal year 2010-2011 was **\$420,584**. This amount is **\$26,451** less than the amount that would have been anticipated based on rates provided in Commission Order 2011-388. Therefore, Chem-Nuclear requests no adjustment in this category of cost.

Irregular Costs: No Adjustment Proposed

The following table summarizes the Irregular Costs incurred in fiscal year 2010-2011 organized by projects. Exhibit B provides additional descriptions of each of these irregular projects. The total costs incurred in fiscal year 2010-2011, as Irregular costs, were **\$158,503** compared to the amount identified in Commission Order No. 2011-388 of **\$187,654**. Chem-Nuclear therefore requests no adjustment in Irregular Costs.

Irregular Cost Item	Order No. 2011-388	Actual FY 10-11 Labor	Actual FY 10-11 Non-Labor	Total Cost FY 10-11
Various Trenches (design, construct, and backfill): Trench 98, Trench 91, Trench 99, and Slit Trench 37.	\$98,307	\$23,500	\$73,929	\$97,429
License Renewal and Appeal costs	\$10,000	\$3,800		\$3,800
Decontamination and Corrective Actions	\$5,000			
Site Engineering and Drawing Updates	\$3,000	\$5,020		\$5,020
Site Assessments	\$5,000			
Other Irregular costs (Monitoring Well Abandonment, Special Site Maintenance Projects, and B&CB staff support)	\$56,347	\$36,179	\$3,680	\$39,868
Increased Security Controls	\$10,000	\$2,600	\$4,900	\$7,610
Irregular Costs without Large Component Disposal	\$187,654	\$71,214	\$82,554	\$153,769
Large Component Disposal (Disposal of Four Old Steam Generators)		\$3,200	\$1,530	\$4,730
Total Irregular Costs	\$187,654	\$74,421	\$84,081	\$158,503

B. EXHIBIT B:

**FISCAL YEAR 2010-2011 IRREGULAR COSTS
ORGANIZED BY PROJECT**

PROJECT NUMBERS	PROJECT NAME AND EXPLANATIONS
188701.8027 188701.8028 188701.8029 188701.8030	Various Trench Construction and Backfill Operations (Labor \$23,499.99 and Non-labor \$73,929.15) Trench construction activities in fiscal year 2010-2011 included design, construction and backfill (including use of free flowing sand where applicable) in Trench 98, Trench 91, Trench 99, and Slit Trench 37.
952188.8001 952188.8002	Appeal DHEC License, License Administration, (Labor \$3,807.28 and Non-Labor \$0) Non-routine activities by licensing department and others related to the appeal process for the DHEC radioactive materials license renewal. Included here are costs for CNS labor. Legal expenses are included in fixed costs.
188000.8005 188000.8006	Decontamination and Corrective Actions (Labor \$0 and Non-labor \$0) Includes costs related to decontamination efforts and corrective actions required as a result of waste received for disposal. No costs were incurred in these projects for FY 2010-2011.
188004.8001	Site Engineering & Drawing Updates (Labor \$5,019.54 and Non-labor \$0) Labor costs for site engineering support and preparation and reproduction of site drawings. The engineering support and drawings were required for various analyses and reports submitted to SC DHEC.
952183.8001	Site Assessments (Labor \$30.71 and Non-Labor \$0) Included here are costs associated with special projects related to site performance as directed by SC DHEC. Also included are costs for providing SC DHEC with requested data records and analysis.
952192.8002 188000.8012 188004.8002	Other Irregular Costs (Special Site Maintenance, Monitoring Well Abandonment, B&CB Staff Support) (Labor \$36,179.49 and Non-labor \$3,688.90) Included here are costs for abandoning five monitoring wells and repairs to the disposal site back-up water supply well. Also included here are costs for SC B&CB staff requests.
188008.8001	Increased Security Controls (Labor \$2677.47 and Non-labor \$4,936.44) Costs associated with maintenance, repair and replacement of physical security equipment as approved by SC DHEC to implement increased controls over radioactive materials at the disposal site.
188007.8001	Large Component Disposal (Labor \$3,206.93 and Non-Labor \$1,527.17) Included here are costs for disposal of four old steam generators in Trench 91. The customer was billed an amount sufficient to cover all allowable operating costs incurred by the site operator to dispose of this waste. Most of the costs for this project were incurred in FY 2009-2010.

EXHIBIT C:
FISCAL YEAR 2011-2012 COSTS

We propose the following amounts be identified as allowable costs for fiscal year 2011-2012:

FIXED COSTS	
Fixed Costs to which 29% operating margin is added	
Labor, Fringe and Non-Labor	\$1,614,745
Corporate Allocations (Management Fees/G&A)	\$644,326
Depreciation	\$51,111
Insurance	\$427,031
Equipment Leases and Support	\$154,106
Fixed Costs to which 29% operating margin is not added	
Legal Support	\$114,957
Total Fixed Costs	\$3,006,276
IRREGULAR COSTS	
Trench Construction	\$98,307
License Appeal	\$10,000
Corrective Action	\$5,000
Site Engineering Drawing	\$3,000
Site Assessments	\$5,000
Miscellaneous	\$56,347
Increased Security Controls	\$10,000
Total Irregular Costs	\$187,654
VARIABLE COSTS	
Variable Labor and Non-Labor Rates	
Vault Purchase and Inspection (per vault)	\$81.35
ABC Waste Disposal (per shipment)	\$1,948.78
Slit Trench Operations (per slit trench offload)	\$6,967.23
Customer Assistance (per shipment)	\$47.64
Trench Records (per container)	\$130.34
Variable Material Cost Rates (Vaults)	
Class A Waste (per cubic foot)	\$40.61
Class B Waste (per cubic foot)	\$42.08
Class C Waste (per cubic foot)	\$42.97
Slit Trench Waste (per cubic foot)	\$191.99

Docket No. 2000-366-A

CERTIFICATE OF SERVICE

Columbia, South Carolina